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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/006,868	10/26/2001	Deron C. McCabe	00-2179	5214

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[REDACTED] EXAMINER

WINDMULLER, JOHN

[REDACTED] ART UNIT [REDACTED] PAPER NUMBER

3724

DATE MAILED: 06/05/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/006,868	CABE, DERON C. MC
	<b>Examiner</b>	<b>Art Unit</b>
	John Windmuller	3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is FINAL.                  2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-7 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
 If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some \* c) None of:  
     1. Certified copies of the priority documents have been received.  
     2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
     3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
 a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                           | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2 . | 6) <input type="checkbox"/> Other: _____ .                                   |

**DETAILED ACTION**

*Specification*

1. The abstract of the disclosure is objected to because. Correction is required. See MPEP § 608.01(b).
2. The specification is objected to because of the following informalities: Page 8, line 26 recites the limitation “elongated body 22”. This should be changed to --elongated body 12--.  
Appropriate correction is required.

*Claim Rejections - 35 USC § 112*

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the third paragraph of the claim recites the limitation “a plurality of heads”. It is understood from the specification that the instant invention is useable with interchangeable heads. However, the above limitation seems to suggest attaching more than one head at once, which does not seem possible.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Mattson.

Mattson discloses the invention as claimed, including, *inter alia*, a chisel with an elongated body (Fig. 1, item 2) having first end and second end having female coupler (Fig. 1, unlabeled, opening at bottom end of item 2), annular flange (Fig. 1, item 5), tubular member having a pair of annular lips (Fig. 1, item 1', lips at top and bottom or member), at least one head with bit and male coupler (Fig. 2, item 3) opposite each other, said male coupler releasably secured to female coupler (Fig. 2, via item 7).

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mattson in view of Logson. The device of Mattson discloses the invention as claimed except for the female coupler comprising a threaded bore extending into the second end of the elongated body and the male coupler comprising a threaded rod. However, Logson teaches a female coupler comprising a

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threaded bore (Fig. 2, item 46) extending into a second end of an elongated body and a male coupler comprising a threaded rod (Fig. 2, male threads at 46). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the device of Mattson with a female coupler comprising a threaded bore extending into the second end of an elongated body and a male coupler comprising a threaded rod as taught by Logson for efficient tool attachment.

9. Claims 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mattson in view of Peterson. The device of Mattson discloses the invention as claimed except for (cl. 4) a first handgrip extending around the elongated body between the second end and the flange, (cl. 5) a second handgrip extending around the elongated body adjacent the first end of the elongated body and having a diameter greater than the diameter of the aperture of the tubular member, (cl. 6) both handgrips having a plurality of finger receiving indentations. However, Peterson teaches a first handgrip (Fig. 1, 12, 15') extending around the elongated body between the second end and the flange, a second handgrip (Fig. 1, 14) extending around the elongated body adjacent the first end of the elongated body and having a diameter greater than the diameter of the aperture of the tubular member, both handgrips having a plurality of finger receiving indentations (Fig. 1, unlabeled, the knurl on 12, 15'). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the device of Mattson with a first handgrip extending around the elongated body between the second end and the flange, a second handgrip extending around the elongated body adjacent the first end of the elongated body and having a diameter greater than the diameter of the aperture of the tubular member, both handgrips having a plurality of finger receiving indentations as taught by Peterson for efficient device operation.

10. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mattson in view of Logson and Peterson and further in view of Gutierrez and Hull et al. The device of Mattson as modified by Logson and Peterson in paragraphs 5 and 6 above discloses the invention as claimed except for an elongated body with a circular cross section and a plurality of heads. However, Gutierrez teaches a plurality of heads (Figs. 2-9) and Hull et al. teach an elongated body with a circular cross section (Figs. 1 and 7, item 14). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the device of Mattson with a plurality of heads as taught by Gutierrez and an elongated body with a circular cross section as taught by Hull et al. to provide a strong and versatile tool.

### *Conclusion*

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Jarock (handle shape 10 with finger indentations), Wang (handle shape 20), the German reference to Hartig (handle shape 10), Niendorf (handle shape), Garver (handle position 31), Sunaga et al. (Fig. 1, handle position 5, 14), Palmgren (handle position 12b; col 2, lines 14-18).

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Windmuller whose telephone number is 703 305-4988. The examiner can normally be reached on M-F 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on 703 308-1082. The fax phone numbers for the

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organization where this application or proceeding is assigned are 703 872-9302 for regular communications and 703 308-9302 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308-1148.

jw   
May 23, 2003

 amy

Allan N. Shoap  
Supervisory Patent Examiner  
Group 3700